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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 LEO DURDEN,

9 Plaintiff,

10 v.

11 GEICO ADVANTAGE INSURANCE
12 COMPANY,

Defendant.

C17-651 TSZ

MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable
14 Thomas S. Zilly, United States District Judge:

15 (1) Defendant's motion for reconsideration, docket no. 36, is DENIED.
16 Defendant contends that its basis for denying underinsured motorist ("UIM") benefits
17 was "reasonable" and that, as a result, it cannot be held liable for insurance bad faith or
18 for violation of the Insurance Fair Conduct Act ("IFCA") or Washington's Consumer
19 Protection Act. Whether defendant's reason for denying UIM benefits was "reasonable"
20 in this case involves genuine disputes of material fact and cannot be decided as a matter
21 of law. The case on which defendant primarily relies, Anderson v. State Farm Mut. Ins.
22 Co., 101 Wn. App. 323, 2 P.3d 1029 (2000), predates the enactment of IFCA in 2007,
23 and is distinguishable. In Anderson, the insured argued that the insurer's investigation
(as opposed to its denial of benefits) was inadequate because the insurer failed to perform
certain tests and did not interview particular witnesses, but the record did not indicate
what such tests and interviews would have revealed. Id. at 334. Moreover, in Anderson,
the plaintiff claimed that the insurer's insufficient investigation caused delay in the
payment of benefits, but the appellate court found plaintiff's allegation that the insurer
would have paid sooner if it had performed a more thorough investigation to be mere
speculation. Id. In contrast, in this case, an eye-witness has repeatedly corroborated

1 plaintiff's theory that he was involved in a hit-and-run incident for which UIM benefits
2 should have been paid, and plaintiff in this matter is not complaining about a delay in
payment, but rather a denial of benefits.

3 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
record.

4 Dated this 11th day of April, 2018.

5
6 William M. McCool

Clerk

7 s/Karen Dews

8 Deputy Clerk
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